

Introduced by Senator AlpertFebruary 11, 1999

An act to amend Section 9002 of, and to add Sections 9023 and 9036 to, the Elections Code, and to repeal and add Sections 84501, 84502, 84503, 84504, 84505, 84506, 84507, 84508, 84509, and 84510 of the Government Code, relating to the ballot measures.

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as introduced, Alpert. Ballot measures: withdrawal: advertisement.

Existing law requires proponents of an initiative measure to obtain a specified number of signatures of registered voters on petitions in order to qualify the measure to be submitted to the voters at an election. Existing law requires the elections officials to verify the validity of the signatures using a random sampling technique. Existing law requires the Legislature to hold public hearings on the measure prior to the date of the election.

This bill would require one of the proponents of an initiative or referendum measure to designate themselves as the lead proponent. The bill would require the proponents of an initiative measure to submit to the Secretary of State petitions of the measure once they have obtained 15% of the percentage number of signatures required to qualify the measure for the ballot and would require the Secretary of State, within 30 days after receipt, as specified to use a random sampling technique to determine the number of qualified voters who have signed the petition. The bill would provide



that, if the petitions do not contain the required number of valid signatures, the Secretary of State shall notify the proponents of that determination and permit the proponents to continue to circulate the petitions in order to obtain the additional necessary number of valid signatures.

This bill would provide that, if the Secretary of State establishes that the petition has the required number of valid signatures, the Secretary of State shall immediately so notify the proponents and schedule a public hearing, as described, on the measure within 30 days of that notification. The bill would further provide that, within 30 days after the public hearing, the lead proponent notify the Secretary of State that he or she has decided to (1) continue to obtain signatures on the petitions without making any change to the text of the initiative measure, (2) continue to obtain signatures on the petitions and make nonsubstantive technical changes, such as correcting drafting errors or making stylistic changes, to the text of the initiative measure, or (3) make substantive changes to the text of the initiative and start the circulation process from the beginning.

This bill also would provide that, after an initiative measure has qualified to be submitted to the voters at an election, it may be withdrawn if the Legislature enacts a proposal that has the identical legal effect as the initiative measure, or the Legislature enacts a proposal that is satisfactory to the lead proponent, as specified.

The existing Political Reform Act of 1974 was amended by the adoption of Proposition 208, an initiative statute approved by the voters at the November 5, 1996, statewide general election. The amendments made by Proposition 208 to the Political Reform Act of 1974, among other things, require specified reporting of independent expenditures; define “advertisement” and “cumulative contributions”; set forth disclosure requirements for certain advertisements for or against ballot measures; specify the manner of identification of committees opposing or supporting ballot measures with donors of \$50,000 or more; prohibit committees’ placing of advertisements, or persons acting in concert with such a committee from creating certain types of committees, for the purpose of avoiding, or that results in avoidance of, specified



required disclosures; require broadcast or mass-mailed advertisements advocating support or defeat of a candidate or ballot measure that are supported by an independent expenditure to make certain disclosures; prescribe the manner of disclosure in print or broadcast advertisements; and make persons violating the provisions for advertising disclosure subject to civil or administrative action by the commission and liable for a fine of up to 3 times the cost of the advertisement, including the placement costs.

A decision of a federal appellate court maintained an injunction on the Fair Political Practices Commission prohibiting the enforcement of the amendments made by Proposition 208 to the Political Reform Act of 1974.

This bill would repeal the above provisions added by Proposition 208 and would reenact requirements in the Political Reform Act of 1974 substantially identical to those provisions.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these criminal penalties on persons who violate the above provisions of the bill.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would, therefore, require a $\frac{2}{3}$ vote.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

1 SECTION 1. Section 9002 of the Elections Code is
2 amended to read:

3 9002. Prior to the circulation of any initiative or
4 referendum petition for signatures, a draft of the
5 proposed measure shall be submitted to the Attorney
6 General with a written request that a title and summary
7 of the chief purpose and points of the proposed measure
8 be prepared. The title and summary shall not exceed a
9 total of 100 words.

10 The persons presenting the request shall be known as
11 the “proponents.” *One of the proponents shall designate*
12 *themselves as the lead proponent.*

13 The Attorney General shall preserve the written
14 request until after the next general election.

15 SEC. 2. Section 9023 is added to the Elections Code,
16 to read:

17 9023. (a) The proponents of an initiative measure
18 shall submit to the Secretary of State petitions of the
19 measure once they have obtained 15 percent of the
20 percentage number of signatures required under Section
21 9035 to qualify the measure for the ballot. The Secretary
22 of State shall within 30 days after receipt, excluding
23 Saturdays, Sundays, and holidays, determine the number
24 of qualified voters who have signed the petition. The
25 Secretary of State shall use a random sampling technique
26 for verification of signatures. The random sample of
27 signatures to be verified shall be drawn in such a manner
28 that every signature filed shall be given an equal
29 opportunity to be included in the sample. The random
30 sampling shall include an examination of at least 500 or 3
31 percent of the signatures, whichever is greater. In
32 determining from the records of registration the number
33 of qualified voters who have signed the petition, the
34 Secretary of State may use the duplicate file of affidavits
35 of registered voters or the facsimiles of voters’ signatures,
36 provided that the method of preparing and displaying the
37 facsimiles complies with law.



1 (b) The Secretary of State, upon the completion of the
2 examination, shall immediately attach to the petition,
3 except the signatures thereto appended, a properly dated
4 certificate, showing the result of the examination. If the
5 petitions do not contain the number of valid signatures
6 required under subdivision (a), the Secretary of State
7 shall notify the proponents of that determination and
8 permit the proponents to continue to circulate the
9 petitions in order to obtain the additional valid signatures
10 necessary under subdivision (a).

11 (c) If the Secretary of State establishes that the
12 petition has the number of valid signatures required
13 under subdivision (a), the Secretary of State shall
14 immediately so notify the proponents and schedule a
15 public hearing on the measure within 30 days of that
16 notification. The Secretary of State shall provide
17 adequate public notice of the public hearing, including
18 notification of print and broadcast news media. Written
19 and oral testimony concerning the initiative measure
20 shall be permitted by the proponents, opponents, and
21 other members of public.

22 (d) Within 10 days after the public hearing, the
23 Secretary of State shall compile and provide to the
24 proponents, opponents, and any member of the public so
25 requesting, copy of all analysis and testimony, including
26 any suggested revisions of the text of the initiative
27 measure, that were presented at the hearing. Within 30
28 days after the public hearing, the lead proponent shall
29 notify the Secretary of State that he or she has decided to
30 (1) continue to obtain signatures on the petitions without
31 making any change to the text of the initiative measure,
32 (2) continue to obtain signatures on the petitions and
33 make nonsubstantive technical changes, such as
34 correcting drafting errors or making stylistic changes, to
35 the text of the initiative measure, or (3) make substantive
36 changes to the text of the initiative and start the
37 circulation process from the beginning.

38 (e) If the lead proponent does not notify the Secretary
39 of State of his or her decision under subdivision (d), the
40 proponents are deemed to have decided to continue to

1 obtain signatures on the petitions without making any
2 change to the text of the initiative measure.

3 SEC. 3. Section 9036 is added to the Elections Code,
4 to read:

5 9036. (a) After an initiative measure has qualified to
6 be submitted to the voters at an election, it may be
7 withdrawn in either of the following circumstances:

8 (1) The Legislature enacts a proposal that has the
9 identical legal effect as the initiative measure.

10 (2) The Legislature enacts a proposal that is
11 satisfactory to the lead proponent.

12 (b) An initiative measure may be withdrawn only if
13 the circumstances described in subdivision (a) are
14 certified in writing by the Legislature or the lead
15 proponent, respectively, to the Secretary of State at least
16 30 days prior to the submission to the printer of the
17 sample ballot in which the initiative measure is to appear.

18 SEC. 4. Section 84501 of the Government Code is
19 repealed.

20 ~~84501. (a) "Advertisement" means any general or~~
21 ~~public advertisement which is authorized and paid for by~~
22 ~~a person or committee for the purpose of supporting or~~
23 ~~opposing a candidate for elective office or a ballot~~
24 ~~measure or ballot measures.~~

25 ~~(b) "Advertisement" does not include a~~
26 ~~communication from an organization other than a~~
27 ~~political party to its members, a campaign button smaller~~
28 ~~than 10 inches in diameter, a bumper sticker smaller than~~
29 ~~60 square inches, or other advertisement as determined~~
30 ~~by regulations of the commission.~~

31 SEC. 5. Section 84501 is added to the Government
32 Code, to read:

33 84501. (a) "Advertisement" means any general or
34 public advertisement which is authorized and paid for by
35 a person or committee for the purpose of supporting or
36 opposing a candidate for elective office or a ballot
37 measure.

38 (b) "Advertisement" does not include a
39 communication from an organization, other than a
40 political party, to its members, a campaign button smaller



1 than 10 inches in diameter, a bumper sticker smaller than
2 60 square inches, or other advertisement as determined
3 by the commission.

4 SEC. 6. Section 84502 of the Government Code is
5 repealed.

6 ~~84502. “Cumulative contributions” means the~~
7 ~~cumulative contributions to a committee beginning the~~
8 ~~first day the statement of organization is filed under~~
9 ~~Section 84101 and ending within seven days of the time~~
10 ~~the advertisement is sent to the printer or broadcast~~
11 ~~station.~~

12 SEC. 7. Section 84502 is added to the Government
13 Code, to read:

14 84502. “Cumulative contributions” means the
15 cumulative contributions to a committee beginning the
16 first day the statement of organization is filed under
17 Section 84101 and ending within seven days of the time
18 the advertisement is sent to the printer or broadcast
19 station.

20 SEC. 8. Section 84503 of the Government Code is
21 repealed.

22 ~~84503. (a) Any advertisement for or against any~~
23 ~~ballot measure shall include a disclosure statement~~
24 ~~identifying any person whose cumulative contributions~~
25 ~~are fifty thousand dollars (\$50,000) or more.~~

26 ~~(b) If there are more than two donors of fifty thousand~~
27 ~~dollars (\$50,000) or more, the committee is only required~~
28 ~~to disclose the highest and second highest in that order.~~
29 ~~In the event that more than two donors meet this~~
30 ~~disclosure threshold at identical contribution levels, the~~
31 ~~highest and second highest shall be selected according to~~
32 ~~chronological sequence.~~

33 SEC. 9. Section 84503 is added to the Government
34 Code, to read:

35 84503. (a) Any advertisement for or against any
36 ballot measure shall include a disclosure statement
37 identifying any person whose cumulative contributions
38 to the committee are fifty thousand dollars (\$50,000) or
39 more.

(b) If there are more than two donors who each have made contributions of fifty thousand dollars (\$50,000) or more, the committee is only required to disclose the donors that have made the first and second greatest contributions in dollar value in that order. If more than two donors have each made contributions of identical amounts in excess of fifty thousand dollars (\$50,000), the first and second donors shall be selected according to the chronological order in which the donors exceeded the fifty thousand dollar (\$50,000) limit.

SEC. 10. Section 84504 of the Government Code is repealed.

~~84504. (a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization filed pursuant to Section 84101.~~

~~(b) If the major donors of fifty thousand dollars (\$50,000) or more share a common employer, the identity of the employer shall also be disclosed.~~

~~(c) Any committee which supports or opposes a ballot measure, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.~~

~~(d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the controlling candidate's name.~~

SEC. 11. Section 84504 is added to the Government Code, to read:

84504. (a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its donors who have each made contributions to the committee of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited to,

1 its statement of organization filed pursuant to Section
2 84101.

3 (b) If the two or more donors who have each made
4 contributions to the committee of fifty thousand dollars
5 (\$50,000) or more have a common employer, the identity
6 of the employer also shall be disclosed.

7 (c) Any committee that supports or opposes a ballot
8 measure shall print or broadcast its name as required by
9 this section in any advertisement or other paid public
10 statement made by the committee.

11 (d) If a candidate or his or her controlled committees,
12 as a group or individually, makes contributions in excess
13 of fifty thousand dollars (\$50,000) to a committee that
14 supports or opposes one or more ballot measures, the
15 candidate or the committee shall be identified by the
16 name of the candidate.

17 SEC. 12. Section 84505 of the Government Code is
18 repealed.

19 ~~84505. In addition to the requirements of Sections~~
20 ~~84503, 84504, and 84506, the committee placing the~~
21 ~~advertisement or persons acting in concert with that~~
22 ~~committee shall be prohibited from creating or using a~~
23 ~~noncandidate controlled committee or a nonsponsored~~
24 ~~committee to avoid, or that results in the avoidance of, the~~
25 ~~disclosure of any individual, industry, business entity,~~
26 ~~controlled committee, or sponsored committee as a major~~
27 ~~funding source.~~

28 SEC. 13. Section 84505 is added to the Government
29 Code, to read:

30 84505. In addition to the requirements of Sections
31 84503, 84504, and 84506, the committee placing the
32 advertisement or persons acting in concert with that
33 committee is prohibited from creating or using a
34 noncandidate-controlled committee or a nonsponsored
35 committee to avoid the disclosure of any individual,
36 industry, business entity, controlled committee, or
37 sponsored committee as a major funding source.

38 SEC. 14. Section 84506 of the Government Code is
39 repealed.

~~84506. If the expenditure for a broadcast or mass mailing advertisement that expressly advocates the election or defeat of any candidate or any ballot measure is an independent expenditure, the committee, consistent with any disclosures required by Sections 84503 and 84504, shall include on the advertisement the names of the two persons making the largest contributions to the committee making the independent expenditure. If an acronym is used to specify any committee names required by this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements. For the purposes of determining the two contributors to be disclosed, the contributions of each person to the committee making the independent expenditure during the one-year period before the election shall be aggregated.~~

SEC. 15. Section 84506 is added to the Government Code, to read:

84506. If the expenditure for an advertisement that expressly advocates the election or defeat of any candidate or any ballot measure is an independent expenditure, the committee, consistent with any disclosures required by Sections 84503 and 84504, shall include on the advertisement the names of the two persons that have made the first and second greatest contributions in dollar value to the committee that made the independent expenditure. If an acronym is used to identify the name of a committee as required by this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements. For the purposes of determining the two contributors to be disclosed, the contributions of each person to the committee making the independent expenditure during the one-year period immediately before the election shall be aggregated.

SEC. 16. Section 84507 of the Government Code is repealed.

~~84507. Any disclosure statement required by this article shall be printed clearly and legibly in no less than~~

~~1 10-point type and in a conspicuous manner as defined by
2 the commission or, if the communication is broadcast, the
3 information shall be spoken so as to be clearly audible and
4 understood by the intended public and otherwise
5 appropriately conveyed for the hearing impaired.~~

6 SEC. 17. Section 84507 is added to the Government
7 Code, to read:

8 84507. Any disclosure statement required by this
9 article shall be printed clearly and legibly in no less than
10 10-point type and in a conspicuous manner as defined by
11 the commission or, if the communication is broadcast, the
12 information shall be spoken so as to be clearly audible and
13 understood by the intended public and otherwise
14 appropriately conveyed for the hearing impaired.

15 SEC. 18. Section 84508 of the Government Code is
16 repealed.

17 ~~84508. If disclosure of two major donors is required by
18 Sections 84503 and 84506, the committee shall be required
19 to disclose, in addition to the committee name, only its
20 highest major contributor in any advertisement which is:~~

- 21 ~~(a) An electronic broadcast of 15 seconds or less, or
22 (b) A newspaper, magazine, or other public print
23 media advertisement which is 20 square inches or less.~~

24 SEC. 19. Section 84508 is added to the Government
25 Code, to read:

26 84508. If disclosure of two major donors is required by
27 Sections 84503 and 84506, the committee shall be required
28 to disclose, in addition to the committee name, only the
29 donor that has made the greatest contribution in dollar
30 value in any advertisement that is either:

- 31 (a) An electronic broadcast of 15 seconds or less.
32 (b) A newspaper, magazine, or other public print
33 media advertisement which is 20 square inches or less.

34 SEC. 20. Section 84509 of the Government Code is
35 repealed.

36 ~~84509. When a committee files an amended campaign
37 statement pursuant to Section 81004.5, the committee
38 shall change its advertisements to reflect the changed
39 disclosure information.~~

1 SEC. 21. Section 84509 is added to the Government
2 Code, to read:

3 84509. If a committee files an amended campaign
4 statement pursuant to Section 81004.5, the committee
5 shall change its advertisements to reflect the changed
6 disclosure information.

7 SEC. 22. Section 84510 of the Government Code is
8 repealed.

9 ~~84510. (a) In addition to the remedies provided for in~~
10 ~~Chapter 11 (commencing with Section 91000) of this title,~~
11 ~~any person who violates this article is liable in a civil or~~
12 ~~administrative action brought by the commission or any~~
13 ~~person for a fine up to three times the cost of the~~
14 ~~advertisement, including placement costs.~~

15 ~~(b) The remedies provided in subdivision (a) shall also~~
16 ~~apply to any person who purposely causes any other~~
17 ~~person to violate any provision of this article or who aids~~
18 ~~and abets any other person in a violation.~~

19 ~~(c) If a judgment is entered against the defendant or~~
20 ~~defendants in an action brought under this section, the~~
21 ~~plaintiff shall receive 50 percent of the amount~~
22 ~~recovered. The remaining 50 percent shall be deposited~~
23 ~~in the General Fund of the state. In an action brought by~~
24 ~~a local civil prosecutor, 50 percent shall be deposited in~~
25 ~~the account of the agency bringing the action and 50~~
26 ~~percent shall be paid to the General Fund of the state.~~

27
28 SEC. 23. Section 84510 is added to the Government
29 Code, to read:

30 84510. (a) In addition to the remedies provided for in
31 Chapter 11 (commencing with Section 91000), any
32 person who violates this article is liable in a civil or
33 administrative action brought by the commission or any
34 person for a fine up to three times the cost of the
35 advertisement, including placement costs.

36 (b) The remedies provided in subdivision (a) also shall
37 apply to any person who purposely causes any other
38 person to violate this article or who aids and abets any
39 other person in a violation of this article.

1 (c) If a judgment is entered against the defendant or
2 defendants in an action brought under this section, the
3 plaintiff shall receive 50 percent of the total amount
4 recovered. The remaining 50 percent shall be deposited
5 in the General Fund. In an action brought by a local civil
6 prosecutor, 50 percent shall be deposited in the account
7 of the agency bringing the action and 50 percent shall be
8 paid to the General Fund.

9 SEC. 24. The Legislature finds and declares that
10 Sections 4 to 23, inclusive, of this act further the purposes
11 of the Political Reform Act of 1974 within the meaning of
12 subdivision (a) of Section 81012 of the Government Code.

13 SEC. 25. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.

